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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,722	02/16/2005	Manfred Wittenstein	05-148	8407

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BACHMAN & LAPOINTE, P.C.
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SUITE 1201
NEW HAVEN, CT 06510

EXAMINER

BROWN, DREW J

ART UNIT	PAPER NUMBER
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3616

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/524,722	WITTENSTEIN, MANFRED	
	Examiner	Art Unit	
	Drew J. Brown	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/16/05 (preliminary amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 15-19, 21, 23, and 26 are objected to because of the following informalities:
In claims 15-19 and 21, the phrase “at least one” should appear before “driven element.”
In line 6 of claim 15, “extended” should be changed to --an extended--.
In line 7 of claim 15, “of” should be changed to --off-- and “vase” should be changed to --base--.
In line 4 of claim 17, “extruded” should be changed to --extended-- to be consistent with claim 15.
In line 2 of claim 19, “transport drive” should be changed to --transport drives--.
In line 2 of claim 23, “axis (A)” should be changed to --axis A--.
In line 3 of claim 23, “(1)” should be removed.
In line 4 of claim 26, “axis (B)” should be changed to --axis B-- and “axis (A)” should be changed to --axis A--.
Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 15, 23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
The limitation that the transport drive is integrated into the base region of the transport drive in claim 15 renders the claim indefinite because it is unclear how the transport drive is integrated into itself. The Examiner suggests removing the phrase “of the transport drive.”

The limitation that the third drive means rotates the housing about the axis A in claims 23 and 24 renders the claim indefinite because it appears, and also as recited in claim 16, that the second drive means rotates the at least one drive element about the axis A.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15-19, 21-23, and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauer (DE 30 15 384 A1).

Bauer discloses a transport drive (15) comprising at least one driven element (27-30) comprising at least one roller is connected to a first drive means (38) for moving the at least one driven element between a retracted position wherein the stage element base region rests on a base (16) and extended position wherein the stage element base region is lifted off the base (Abstract). The transport drive further comprises a second drive means (42) for rotating the at least one driven element about an axis A which is substantially perpendicular to the base region, and a third drive means (32) for rotating the at least one driven element about an axis B such that, when the at least one driven element is in the extended position, the stage element moves along the base (Abstract). A plurality of transport drives are integrated into different regions of the base region (Figure 2), and the at least one driven element is in a housing (31), in which the first drive means is provided in order to pivot the at least one driven element in a Z direction (moves in Z direction when lifted off of the base). A plurality of stage elements (13 and 14) can be driven in a wire-free manner (remote control) so as to be rotatable as desired, movable in the X and/or Y direction and capable of being driven. The housing is inserted into a recess (within supports 20 and 22) in the stage element, wherein the housing is flat and flush with the base region (Figure 4 and Abstract), and the housing is rotated through 360 degrees about the axis A in the recess of the base element by the second drive means (Figure 5). The at least one driven element can be driven rotationally, pivotable about the axis B, and rotatable about the axis A via

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at least one control device (remote control). Also, via the at least one control device, wire-free (remote control) driving from the outside is carried out in order to move the stage element and lower the stage element onto a base.

With respect to claims 15, 16, 26, and 28, although Bauer does disclose the claimed limitations, the recitations that the first drive means “for moving” the at least one driven element, a second drive means “for rotating” the at least one driven element, the at least one driven element “can be” driven, stage elements “can be” drive, and “capable of being drive” do not serve to distinguish because they are narrative in form. The recitations are not supported by recitation in the claims of sufficient structure to warrant the presence of the functional language. Further, it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Melke (U.S. Pat. No. 4,044,853).

Bauer discloses the claimed invention as discussed above but does not disclose that the plurality of transport drives are connected to one another via bus interfaces and can be driven jointly or individually.

Melke, however, does disclose that the transport drives can be driven jointly or individually (claim 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Bauer in view of the teachings of Melke to allow the transport drives to be driven jointly or individually so that the stage can move in any direction by allowing each of the at least one driven element to move separately.

Although the combination of Bauer and Kadowaki does disclose the claimed limitation, the recitation that it “can be driven” does not serve to distinguish because it is narrative in form. The recitations are not supported by recitation in the claims of sufficient structure to warrant the presence of the functional language. Further, it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform.

With respect to the limitation that the transport drives are connected to one another via bus interfaces, it would have been obvious to one having ordinary skill in the art at the time the invention was made to connect them via bus interfaces since it was known in the art that connecting two electrically powered elements via bus interfaces is old and well known.

8. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Kadowaki (U.S. Pat. No. 5,526,890).

Bauer discloses the claimed invention as discussed above but does not disclose that the housing is mounted on a bearing such that it can be rotated by a shaft which is driven in rotation via a gear element by means of a further drive gear engaging in the latter and belonging to the second drive means.

However, Kadowaki does disclose that the housing is mounted on a bearing (71) such that it can be rotated by a shaft (75) which is driven in rotation via a gear element (73) by means of a further drive gear (74) engaging in the latter and belonging to the second drive means. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Bauer in view of the teachings of Kadowaki to mount the housing as discussed above so that each drive means associated with each of the at least one driven element will turn smoothly.

Although the combination of Bauer and Kadowaki does disclose the claimed limitations, the recitation that it “can be rotated” does not serve to distinguish because it is narrative in form. The recitations are not supported by recitation in the claims of sufficient structure to warrant the presence of the functional language. Further, it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform.

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9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer in view of Melke, and further in view of Official Notice.

The combination of Bauer and Melke discloses the claimed invention as discussed above but does not disclose that the stage element has a rechargeable power source. The Examiner takes Official Notice that it is old and well known in the art that rechargeable power sources are used with electrical power supplies. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a rechargeable power source so the power supply does not have to be exchanged when one is exhausted, thereby saving material costs.


Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ivancic, Kubo, Thole, and Ager disclose similar stage wagons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


PAUL N. DICKSON 3/26/07
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Examiner
Art Unit 3616